Remarks/Arguments

Claim 1 has been amended to incorporate the content of claim 10, found allowable. Therefore, the rejections of claims 1-9 are believed rendered moot.

Claim 11, on the other hand, has been rejected under 35 U.S.C. 102(b) as anticipated by Wickremasinghe. This rejection is traversed.

The Examiner states:

> "Regarding claim 11, Wickremasinghe discloses an automatic shutoff overflow controller (figs. 1-4) for use in shutting off a powered liquid processing device 18 when an undesirably high level of liquid is sensed in a liquid containment 20 for liquid draining from the device, the controller 12 comprising a sensor circuit (42, 100; figs. 5-6) engaged between the device and a source of power (connectors 11, 14, 16) and including conductive sensor probes 38 placed at a desired level within the liquid containment 20 such that, when the probes become immersed in liquid, an audible warning is produced and

flow of power from the source to the device is interrupted, the sensor probes being mounted within a housing 40 engaged to an outlet end of an outlet hose 24 from the device."

This reading of Wickremasinghe is incorrect.

Viewing Figure 4 of Wickremasinghe one is hard pressed to define 40 as a housing for probe 38, since probe 38 is LARGER THAN element 40. Further, element 40 is defined in the specification as an adhesive strip for attaching the probe 38 TO THE CONTAINMENT WALL approximately 5" below the top thereof.

Viewing Figure 1 and 4, the claims define ambiguously, the element 16 to be a wire while the specification refers to 16 and 26 as an audio jack.

In Figure 1, the "wire" 16 is shown within the containment 20 but nowhere is it shown, described or conjectured that the sensor(s) 38 are to be mounted to an end of a discharge tube (24) of a device.

Further, there is no housing by means of which such goal can be accomplished; rather there is merely and "adhesive strip" 40 for mounting the probe 38 to the containment wall (see Figures 1 and 4).

Accordingly, since there is no suggestion of providing a

housing for the probe or of mounting such housed probes on the end of a drain hose of a device (in contrast to mounting a probe within a drain into which the device is drained via a drain hose), there is no way anticipation can exist and the rejection must fail.

Here the Examiner is directed to the decisions in

Structural Rubber Prod. Co., v. Park Rubber Co., 749 F.2d 707, 223 USPQ 1264 (Fed. Cir. 1984)

> "Anticipation can only be established by a single prior art reference which discloses each and every element of the claimed invention. Anticipation is not shown even if, ... the differences between the claims and the prior art references are "insubstantial" and the missing elements could be supplied by the knowledge of one skilled in the art."

and

In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)

> "'For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference'... These elements must be arranged as in the claim under review,..."

and

Pac-Tec, Inc., v. Amerace Corp., 903 F.2d 796, 14 USPQ2d 1871 (Fed. Cir. 1990)

"In determining anticipation, ... functional language, preambles, and language in "whereby," "thereby," and "adapted to" clauses cannot be disregarded."

and

Richardson v. Suzuki Motor Co., Ltd., 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989)

(3) "Every element of the claimed invention must be literally present, arranged as in the claim."

The prior art made of record but not relied upon is no more pertinent than the cited art.

Based on the above, the application should now be found to be in condition for allowance and an early action to that end is awaited.

Respectfully submitted,

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